

109TH CONGRESS  
2D SESSION

# H. R. 5004

To amend the Homeland Security Act of 2002 to provide for an Office of Intelligence and Analysis and an Office of Infrastructure Protection, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2006

Mr. SIMMONS (for himself and Ms. ZOE LOFGREN of California) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Select Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Homeland Security Act of 2002 to provide for an Office of Intelligence and Analysis and an Office of Infrastructure Protection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEPARTMENTAL REORGANIZATION.**

4 (a) REDESIGNATION OF DIRECTORATE FOR INFOR-  
5 MATION ANALYSIS AND INFRASTRUCTURE PROTEC-  
6 TION.—Section 201 of the Homeland Security Act of 2002  
7 is amended—

1 (1) in subsection (a)(1)—

2 (A) by striking “a Directorate for Informa-  
3 tion Analysis and Infrastructure Protection”  
4 and inserting “an Office of Intelligence and  
5 Analysis”; and

6 (B) by striking “an Under Secretary for  
7 Information Analysis and Infrastructure Pro-  
8 tection” and inserting “an Under Secretary for  
9 Intelligence and Analysis”;

10 (2) by striking subsection (b) and redesignating  
11 subsections (c) through (g) as subsections (b)  
12 through (f), respectively;

13 (3) in subsection (b), as so redesignated—

14 (A) by striking “and infrastructure protec-  
15 tion” before “are carried out” and inserting  
16 “and intelligence”; and

17 (B) by striking “the Under Secretary for  
18 Information Analysis and Infrastructure Pro-  
19 tection” and inserting “the Under Secretary for  
20 Intelligence and Analysis”;

21 (4) in subsection (c), as so redesignated—

22 (A) by striking “the Under Secretary for  
23 Information Analysis and Infrastructure Pro-  
24 tection” and inserting “the Under Secretary for  
25 Intelligence and Analysis”;

1 (B) by striking paragraphs (2), (5), and  
2 (6), and redesignating paragraphs (3) through  
3 (17) as paragraphs (2) through (14), respec-  
4 tively;

5 (C) by redesignating paragraphs (18) and  
6 (19) as paragraphs (20) and (21), respectively;

7 (D) in paragraph (2), as so redesignated,  
8 by striking “To integrate” and inserting “To  
9 participate in the integration of”;

10 (E) in paragraph (14), as so redesignated,  
11 by inserting “the Assistant Secretary for Infra-  
12 structure Protection and” after “coordinate  
13 with”; and

14 (F) by inserting after paragraph (14), as  
15 redesignated by subparagraph (B), the fol-  
16 lowing new paragraphs:

17 “(15) To coordinate and enhance integration  
18 among intelligence components of the Department.

19 “(16) To establish intelligence priorities, poli-  
20 cies, processes, standards, guidelines, and procedures  
21 for the Department.

22 “(17) To establish a structure and process to  
23 support the missions and goals of the intelligence  
24 components of the Department.

25 “(18) To ensure that, whenever possible—

1           “(A) the Under Secretary for Intelligence  
2           and Analysis produces and disseminates reports  
3           and analytic products based on open-source in-  
4           formation that do not require a national secu-  
5           rity classification under applicable law; and

6           “(B) such unclassified open source reports  
7           are produced and disseminated contempora-  
8           neously with reports or analytic products con-  
9           cerning the same or similar information that  
10          the Under Secretary for Intelligence and Anal-  
11          ysis produces and disseminates in a classified  
12          format.

13          “(19) To establish within the Office of Intel-  
14          ligence Analysis an Internal Continuity of Oper-  
15          ations (COOP) Plan that—

16               “(A) assures that the capability exists to  
17               continue uninterrupted operations during a  
18               wide range of potential emergencies, including  
19               localized acts of nature, accidents, and techno-  
20               logical or attack-related emergencies, that is  
21               maintained at a high level of readiness and is  
22               capable of implementation with and without  
23               warning; and

1 “(B) includes plans and procedures gov-  
2 erning succession to office within the Office of  
3 Intelligence and Analysis, including—

4 “(i) emergency delegations of author-  
5 ity (where permissible, and in accordance  
6 with applicable law);

7 “(ii) the safekeeping of vital re-  
8 sources, facilities, and records;

9 “(iii) the improvisation or emergency  
10 acquisition of vital resources necessary for  
11 the performance of operations of the Of-  
12 fice; and

13 “(iv) the capability to relocate essen-  
14 tial personnel and functions to and to sus-  
15 tain the performance of the operations of  
16 the Office at an alternate work site until  
17 normal operations can be resumed.”;

18 (5) in subsections (d) and (e), as redesignated  
19 by subsection (a)(2), by striking “Directorate” each  
20 place it appears and inserting “Office”; and

21 (6) in subsection (f), as redesignated by sub-  
22 section (a)(2)—

23 (A) by striking “the Under Secretary for  
24 Information Analysis and Infrastructure Pro-  
25 tection” and inserting “the Under Secretary for

Intelligence and Analysis and the Assistant Secretary for Infrastructure Protection”; and

(B) by inserting “and section 203” after “under this section”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) in section 103(2), by striking “Information Analysis and Infrastructure Protection” and inserting “Intelligence and Analysis”;

(B) in section 223, by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Under Secretary for Intelligence and Analysis, in cooperation with the Assistant Secretary for Infrastructure Protection”;

(C) in section 224, by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Assistant Secretary for Infrastructure Protection”;

(D) in section 302(3), by striking “Under Secretary for Information Analysis and Infrastructure Protection” and inserting “Under Secretary for Intelligence and Analysis and the

1 Assistant Secretary for Infrastructure Protec-  
 2 tion”;

3 (E) in the first section 510(d)—

4 (i) in paragraph (1), by striking “Di-  
 5 rectorate for Information Analysis and In-  
 6 frastructure Protection” and inserting  
 7 “Office of Intelligence and Analysis”; and

8 (ii) in paragraph (2), by striking  
 9 “Under Secretary for Information Analysis  
 10 and Infrastructure Protection” and insert-  
 11 ing “Under Secretary for Intelligence and  
 12 Analysis”; and

13 (F) by redesignating the second section  
 14 510 as section 511.

15 (2) HEADINGS.—

16 (A) SECTION 201.—The heading for section  
 17 121 of such Act is amended to read as follows:

18 **“SEC. 201. OFFICE OF INTELLIGENCE AND ANALYSIS.”.**

19 (B) SECTION 201(a).—The heading for  
 20 subsection (a) of section 121 of such Act is  
 21 amended to read as follows:

22 “(a) UNDER SECRETARY OF HOMELAND SECURITY  
 23 FOR INTELLIGENCE AND ANALYSIS.—”.

24 (C) SECTION 201(b).—The heading for  
 25 subsection (b) of section 121 of such Act, as re-

1 designated by subsection (a)(2), is amended to  
2 read as follows:

3 “(b) DISCHARGE OF INTELLIGENCE AND ANAL-  
4 YSIS.—”.

5 (3) NATIONAL SECURITY ACT OF 1947.—Section  
6 106(b)(2)(I) of the National Security Act of 1947  
7 (50 U.S.C. 403–6) is amended to read as follows:

8 “(I) The Under Secretary of Homeland Se-  
9 curity for Intelligence and Analysis.”.

10 (4) INTELLIGENCE REFORM AND TERRORISM  
11 PREVENTION ACT OF 2004.—Section 7306(a)(1) of  
12 the Intelligence Reform and Terrorism Prevention  
13 Act of 2004 (Public Law 108–458; 118 Stat. 3848)  
14 is amended by striking “Under Secretary for Infor-  
15 mation Analysis and Infrastructure Protection” and  
16 inserting “Under Secretary for Intelligence and  
17 Analysis”.

18 (c) CLERICAL AMENDMENT.—The table of contents  
19 in section 1(b) of the Homeland Security Act of 2002 is  
20 amended by adding after the items relating to section 509  
21 the following:

“Sec. 510. Procurement of security countermeasures for strategic national  
stockpile.

“Sec. 511. Urban and other high risk area communications capabilities.”.



1 **SEC. 2. INTELLIGENCE COMPONENTS OF DEPARTMENT OF**  
2 **HOMELAND SECURITY.**

3 (a) RESPONSIBILITIES.—Subtitle A of title II of the  
4 Homeland Security Act of 2002 6 U.S.C. 201 et seq.) is  
5 amended by adding at the end the following new section:

6 **“SEC. 203. INTELLIGENCE COMPONENTS.**

7 “(a) RESPONSIBILITIES.—Subject to the direction  
8 and control of the Secretary, the responsibilities of the  
9 head of each intelligence component of the Department  
10 are as follows:

11 “(1) To ensure that duties related to the acqui-  
12 sition, analysis, and dissemination of homeland secu-  
13 rity information are carried out effectively and effi-  
14 ciently in support of the Under Secretary for Intel-  
15 ligence and Analysis.

16 “(2) To support and implement the goals estab-  
17 lished in cooperation with the Under Secretary for  
18 Intelligence and Analysis.

19 “(3) To incorporate the input of the Under Sec-  
20 retary for Intelligence and Analysis with respect to  
21 performance appraisals, bonus or award rec-  
22 ommendations, pay adjustments, and other forms of  
23 commendation.

24 “(4) To coordinate with the Under Secretary  
25 for Intelligence and Analysis in the recruitment and

1 selection of intelligence officials of the intelligence  
2 component.

3 “(5) To advise and coordinate with the Under  
4 Secretary for Intelligence and Analysis on any plan  
5 to reorganize or restructure the intelligence compo-  
6 nent that would, if implemented, result in realign-  
7 ments of intelligence functions.

8 “(6) To ensure that employees of the intel-  
9 ligence component have knowledge of and comply  
10 with the programs and policies established by the  
11 Under Secretary for Intelligence and Analysis and  
12 other appropriate officials of the Department and  
13 that such employees comply with all applicable laws  
14 and regulations.

15 “(7) To perform such other duties relating to  
16 such responsibilities as the Secretary may provide.

17 “(b) TRAINING OF EMPLOYEES.—The Secretary  
18 shall provide training and guidance for employees, offi-  
19 cials, and senior executives of the intelligence components  
20 of the Department to develop knowledge of laws, regula-  
21 tions, operations, policies, procedures, and programs that  
22 are related to the functions of the Department relating  
23 to the handling, analysis, dissemination, and acquisition  
24 of homeland security information.”.

1 (b) INTELLIGENCE COMPONENT DEFINED.—Section  
 2 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)  
 3 is amended by adding at the end the following new para-  
 4 graph:

5 “(17) The term ‘intelligence component of the  
 6 Department’ means any directorate, agency, or ele-  
 7 ment of the Department that gathers, receives, ana-  
 8 lyzes, produces, or disseminates homeland security  
 9 information except—

10 “(A) a directorate, agency, or element of  
 11 the Department that is required to be main-  
 12 tained as a distinct entity under this Act; or

13 “(B) any personnel security, physical secu-  
 14 rity, document security, or communications se-  
 15 curity program within any directorate, agency,  
 16 or element of the Department.”.

17 (c) CLERICAL AMENDMENT.—The table of contents  
 18 in section 1(b) of such Act is amended by adding at the  
 19 end of the items relating to such subtitle the following the  
 20 following:

“Sec. 203. Intelligence components.”.

21 **SEC. 3. OFFICE OF INFRASTRUCTURE PROTECTION.**

22 (a) ESTABLISHMENT.—Subtitle A of title II of the  
 23 Homeland Security Act of 2002 (6 U.S.C. 201 et seq.),  
 24 as amended by section 2, is further amended by adding  
 25 at the end the following new section:

1 **“SEC. 204. OFFICE OF INFRASTRUCTURE PROTECTION.**

2 “(a) ASSISTANT SECRETARY FOR INFRASTRUCTURE  
3 PROTECTION.—

4 “(1) IN GENERAL.—There shall be in the De-  
5 partment an Office of Infrastructure Protection  
6 headed by an Assistant Secretary for Infrastructure  
7 Protection.

8 “(2) RESPONSIBILITIES.—The Assistant Sec-  
9 retary shall assist the Secretary in discharging the  
10 responsibilities assigned by the Secretary.

11 “(b) DISCHARGE OF INFRASTRUCTURE PROTEC-  
12 TION.—The Secretary shall ensure that the responsibilities  
13 of the Department regarding infrastructure protection are  
14 carried out through the Assistant Secretary for Infrastruc-  
15 ture Protection.

16 “(c) RESPONSIBILITIES OF ASSISTANT SEC-  
17 RETARY.—Subject to the direction and control of the Sec-  
18 retary, the responsibilities of the Assistant Secretary for  
19 Infrastructure Protection shall be as follows:

20 “(1) To carry out comprehensive assessments of  
21 the vulnerabilities of the key resources and critical  
22 infrastructure of the United States, including the  
23 performance of risk assessments to determine the  
24 risks posed by particular types of terrorist attacks  
25 within the United States (including an assessment of  
26 the probability of success of such attacks and the

1 feasibility and potential efficacy of various counter-  
2 measures to such attacks).

3 “(2) To participate in the integration of rel-  
4 evant information, analyses, and vulnerability assess-  
5 ments (whether such information, analyses, or as-  
6 sessments are provided or produced by the Depart-  
7 ment or others) in order to identify priorities for  
8 protective and support measures by the Department,  
9 other agencies of the Federal Government, State and  
10 local government agencies and authorities, the pri-  
11 vate sector, and other entities.

12 “(3) To develop a comprehensive national plan  
13 for securing the key resources and critical infra-  
14 structure of the United States, including power pro-  
15 duction, generation, and distribution systems, infor-  
16 mation technology and telecommunications systems  
17 (including satellites), electronic financial and prop-  
18 erty record storage and transmission systems, emer-  
19 gency preparedness communications systems, and  
20 the physical and technological assets that support  
21 such systems.

22 “(4) To recommend measures necessary to pro-  
23 tect the key resources and critical infrastructure of  
24 the United States in coordination with other agen-  
25 cies of the Federal Government and in cooperation

1 with State and local government agencies and au-  
2 thorities, the private sector, and other entities.

3 “(5) To coordinate with the Under Secretary  
4 for Intelligence and Analysis and elements of the in-  
5 telligence community and with Federal, State, and  
6 local law enforcement agencies, and the private sec-  
7 tor, as appropriate.

8 “(6) To perform such other duties relating to  
9 such responsibilities as the Secretary may provide.

10 “(d) STAFF.—

11 “(1) IN GENERAL.—The Secretary shall provide  
12 the Office with a staff having appropriate expertise  
13 and experience to assist the Assistant Secretary in  
14 discharging responsibilities under this section.

15 “(2) PRIVATE SECTOR STAFF.—Staff under  
16 this subsection may include staff from the private  
17 sector.

18 “(3) SECURITY CLEARANCES.—Staff under this  
19 subsection shall possess security clearances appro-  
20 priate for their work under this section.

21 “(e) DETAIL OF PERSONNEL.—

22 “(1) IN GENERAL.—In order to assist the Of-  
23 fice in discharging responsibilities under this section,  
24 personnel of other Federal agencies may be detailed

1 to the Department for the performance of analytic  
2 functions and related duties.

3 “(2) COOPERATIVE AGREEMENTS.—The Sec-  
4 retary and the head of the agency concerned may  
5 enter into cooperative agreements for the purpose of  
6 detailing personnel under this subsection.

7 “(3) BASIS.—The detail of personnel under this  
8 subsection may be on a reimbursable or non-reim-  
9 bursable basis.”.

10 (b) CLERICAL AMENDMENT.—The table of contents  
11 in section 1(b) of such Act is amended by adding at the  
12 end of the items relating to such subtitle the following:

“Sec. 204. Office of Infrastructure Protection.”.

○